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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 CHARLES SMALL,

12 Plaintiff,

13 vs.

14 MATTHEW MARTEL, as an individual, and
15 as the warden from the California
16 Rehabilitation Center; GUILLERMINA
17 HALL MURRAY, as an individual, and as
18 the warden from the California Rehabilitation
19 Center; SHERIFF WILLIAM KOLENDER,
as an individual and on behalf of THE
GEORGE BAILEY DETENTION
FACILITY; BONNIE DUMANIS, as an
individual, and DOES 1-50,

20 Defendants.
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CASE NO. 09 CV 913 JM (POR)

**ORDER GRANTING
VOLUNTARY DISMISSAL OF
DEFENDANT DUMANIS;
DENYING DEFENDANT
DUMANIS'S MOTION TO
DISMISS AS MOOT**

Doc. Nos. 12, 7


22 Pending before the court is Plaintiff's request for voluntary dismissal of Defendant Dumanis
23 without prejudice. (Doc. No. 12). A "plaintiff may dismiss an action without a court order by filing
24 . . . a notice of dismissal before the opposing party serves either an answer or a motion for summary
25 judgment." Fed. R. Civ. P. 41(a)(1)(A)(i). Defendant Dumanis has filed a motion to dismiss, but has
26 not filed either an answer or a motion for summary judgment. Accordingly, the action against
27 Defendant Dumanis is hereby DISMISSED WITHOUT PREJUDICE.

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1 Furthermore, Defendant Dumanis's motion to dismiss (Doc. No. 7) is hereby DENIED as
2 moot.

3 **IT IS SO ORDERED.**

4 DATED: October 19, 2009

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6 Hon. Jeffrey T. Miller
7 United States District Judge
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